

Civil forfeiture approval shows Nashville is desperate for cash. It was the wise thing to do for now | Opinion

[Alex Hubbard](#) Updated 10:10 a.m. CT Nov. 30, 2018

Mayor David Briley and a Fraternal Order of the Police member get in a heated debate about taxes. The Tennessean

Metro Council handily approved the civil asset forfeiture program for police. Nashville needs the money. Hopefully, that won't be the case in the future.

In its Nov. 20 meeting, the Metro Council again opened a little can of worms when it renewed an agreement with the federal government that many contend violates the due-process rights of potentially innocent people.

The 25-5 vote to renew the so-called “[equitable sharing program](#)” with the U.S. Department of Justice and the Drug Enforcement Administration was not as close as a year ago, when the council approved the agreement by a single vote.

However, the debate the agreement sparked did lay open wounds hardly healed from this year’s budget battles, and promises that next year’s budget showdown will be no smoother.

The “equitable sharing program” has to do with assets seized by governments that are deemed to have a part in a federal crime such as drug trafficking. The

proceeds gained through the program are shared with local law enforcement; in Metro, officials told the council, about \$150,000 worth.

This seizure is troublesome [because it utilizes civil asset forfeiture](#) rather than criminal asset forfeiture. Criminal forfeiture requires a person's conviction. Civil forfeiture does not, meaning that a person may lose money or property for a crime they were not convicted of or possibly never even charged.

The [evidentiary bar in civil forfeiture is also much lower](#) than the beyond-reasonable-doubt standard employed in criminal convictions.

While there are legal remedies available, there are plenty of cases that prove the impossibility of reversing a government misdeed.



Criminal forfeiture requires a person's conviction. Civil forfeiture does not, meaning that a person may lose money or property for a crime they were not convicted of or possibly never even charged. (Photo: Getty Images/Purestock)

There are civil asset forfeiture critics on both sides of the aisle

Objection to civil forfeiture spans the political spectrum, from the American Civil Liberties Union to the Heritage Foundation, but the council's agreement to continue participating in the sharing program hinged more on the city's desperate need for cash.

"I have zero confidence in this council body to find \$150,000," said council member Jacobia Dowell. "When you go back and look at budget time, we couldn't find the money to address the budget issues that we had, so saying that we have \$150,000 and I'll work with you and find it is a joke to me."

Those opposing the sharing agreement, most notably Freddie O'Connell, who represents many economically distressed neighborhoods, stressed that the bone they had to pick was not with the Metro Nashville Police Department or its conduct in seizing assets, but with the presumptions of the federal policy whereby Nashville comes by the money.

Council members Doug Pardue, Bill Pridemore and Russ Pulley, all former law enforcement members, took the narrowest view of the argument.

"I don't understand why anybody would vote against us doing something that would help the police department," Pardue said. "It's obvious that this damn council is not going to do nothing to help them."



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Metro Council is between a rock and a hard place

The truth is the council can't do very much to help itself right now. This is a body that just [squeaked by on declining to raise property taxes](#) last summer while also struggling to make budget cuts.

Granted, quirky if well-meaning laws preventing the city from collecting greater revenue by property appraisal alone place the council in the politically unenviable position of raising taxes in order to capture that appraisal value, but public office is about making difficult decisions.

The city has a fire department that, in the very best case imaginable, [is just barely funded adequately](#), schools that don't function too well and is set to invite 5,000 Amazon jobs to the city with presumably more associated jobs to come, placing the entire apparatus under more stress. It's also worth noting that \$1.5 million will have to be found before the end of this budget to fund the police oversight board just passed by voter referendum.

Clearly some difficult decisions have yet to be made.

It's noble to make a stand against a constitutionally suspect federal policy, but Dowell's pragmatic vote to keep the \$150,000 money share flowing is the right one for now. The best idea would be to get this city in financial shape comparable to the gleaming towers going up all over the place.

Then the city could turn to the federal government and say, "Keep your money."

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